

Senate File 137 - Enrolled

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SENATE FILE 137

AN ACT

PROVIDING FOR THE REGISTRATION OF ASSOCIATE REAL ESTATE APPRAISERS, PROHIBITING IMPROPER INFLUENCE OVER AN APPRAISER'S EVALUATION OPINION, AND IMPOSING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 543D.3, Code 2007, is amended to read as follows:

543D.3 PURPOSES ~~== VOLUNTARY CERTIFICATION.~~

The purpose of this chapter is to establish standards for real estate appraisals and a procedure for the voluntary certification of real estate appraisers and the mandatory registration of associate real estate appraisers.

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter or a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser.

Sec. 2. Section 543D.9, Code 2007, is amended to read as follows:

543D.9 EDUCATION AND EXPERIENCE REQUIREMENT.

The board shall determine what real estate appraisal or real estate appraisal review experience and what education shall be required to provide appropriate assurance that an applicant for certification is competent to perform the certified appraisal work which is within the scope of practice defined by the board. All experience required for initial certification shall be performed as a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser, except as the board may provide by rule. The board shall prescribe a required minimum number of tested hours of education relating to the provisions of this chapter, the uniform appraisal standards, and other rules issued in accordance with this chapter.

Sec. 3. Section 543D.18, subsection 1, Code 2007, is amended to read as follows:

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter. The reliance of the public in general and of the financial business community in particular on sound, reliable real estate appraisal practices imposes on persons engaged in the practice of real estate appraising as certified real estate appraisers or as registered associate real estate appraisers certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence in thought and action, to adhere to the uniform appraisal standards adopted under this chapter, and to maintain high standards of personal conduct in all matters impacting one's fitness to practice real estate appraising. A certified real estate appraiser and a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser shall perform all appraisal assignments in an honest, disinterested and impartial manner, with objectivity and independence, and without accommodation to the personal interests or objectives of the appraiser, the client, or any third person.

Sec. 4. Section 543D.18, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A certified real estate appraiser who receives significant real property appraisal assistance in the development or reporting of an appraisal assignment shall disclose such assistance in accordance with the uniform appraisal standards adopted under this chapter.

Sec. 5. NEW SECTION. 543D.18A PENALTIES FOR IMPROPER INFLUENCE OF AN APPRAISAL ASSIGNMENT.

1. A mortgage lender, mortgage broker or originator, real

3 4 estate broker or salesperson, client, party, appraiser, or any
3 5 other person with an interest in a real estate transaction or
3 6 the financing of any loan secured by real estate involving an
3 7 appraisal assignment shall not improperly influence or attempt
3 8 to improperly influence the development, reporting, result, or
3 9 review of a real estate appraisal through coercion, extortion,
3 10 or bribery, or by the withholding or threatened withholding of
3 11 payment for an appraisal fee, or the conditioning of the
3 12 payment of an appraisal fee upon the opinion, conclusion, or
3 13 valuation to be reached, or a request that the appraiser
3 14 report a predetermined opinion, conclusion, or valuation, or
3 15 the desired valuation of any person, or by any other act or
3 16 practice that impairs or attempts to impair an appraiser's
3 17 independence, objectivity, and impartiality, as required by
3 18 section 543D.18, subsections 1 and 2.

3 19 2. A violation of this section is an unlawful practice
3 20 under section 714.16, subsection 2, paragraph "a".

3 21 3. A violation of this section is a ground for discipline
3 22 against any person holding a certificate of registration under
3 23 this chapter or another license issued under the laws of the
3 24 state of Iowa, as license is defined in section 17A.2,
3 25 subsection 6, if the practice of the profession, occupation,
3 26 or business regulated by the license relates to real estate
3 27 transactions or the financing of loans secured by real estate.

3 28 4. A person does not violate this section solely by asking
3 29 an appraiser to consider additional, appropriate property
3 30 information, or to provide further detail, substantiation, or
3 31 explanation for the appraiser's value conclusion, or to
3 32 correct errors in the appraisal report, or by withholding
3 33 payment of an appraisal fee based on a bona fide dispute
3 34 regarding the appraiser's compliance with the appraisal
3 35 standards adopted by the board under this chapter. A person
4 1 does not violate this section solely by retaining appraisers
4 2 from panels or lists on a rotating basis, or by supplying an
4 3 appraiser with information the appraiser is required to
4 4 analyze under the appraisal standards adopted by the board
4 5 under this chapter, such as agreements of sale, options, or
4 6 listings of the property to be valued.

4 7 Sec. 6. NEW SECTION. 543D.20 REGISTRATION OF ASSOCIATE
4 8 REAL ESTATE APPRAISERS.

4 9 1. A person shall not assist a certified real estate
4 10 appraiser in the development or reporting of an appraisal
4 11 assignment that is required by this chapter, or by federal or
4 12 state law, rule, or policy to be performed by a certified real
4 13 estate appraiser, unless the person meets one or more of the
4 14 following conditions:

4 15 a. The person is certified under this chapter.

4 16 b. The person is registered as an associate real estate
4 17 appraiser and is acting under the direct supervision of a
4 18 certified real estate appraiser.

4 19 c. The person is solely providing administrative services,
4 20 such as taking photographs, preparing charts, or typing
4 21 reports, and is not providing real estate appraisal assistance
4 22 in developing the analysis, valuation, opinions, or
4 23 conclusions associated with the appraisal assignment.

4 24 d. The person is providing professional consultation that
4 25 does not constitute real property appraisal assistance, such
4 26 as the assistance of a professional engineer or certified
4 27 public accountant.

4 28 2. The board shall establish by rule the terms and
4 29 conditions of the registration of associate real estate
4 30 appraisers, including the educational and other prerequisites
4 31 to registration, the fees for registration and the renewal of
4 32 registration, and the continuing education requirements for
4 33 renewal of registration. The board shall consider and may
4 34 incorporate any guidelines recommended by the appraisal
4 35 qualifications board of the appraisal foundation relating to
5 1 associate real estate appraisers.

5 2 3. The board shall adopt rules governing the manner in
5 3 which certified real estate appraisers shall directly
5 4 supervise associate real estate appraisers, the standards of
5 5 conduct for associate real estate appraisers, and the grounds
5 6 for imposing discipline against an associate real estate
5 7 appraiser which shall include all of the grounds provided in
5 8 section 543D.17.

5 9 4. Associate real estate appraisers shall be bound by the
5 10 uniform appraisal standards adopted by the board under this
5 11 chapter.

5 12 5. Persons who appraise real estate where certification is
5 13 not required by this chapter or by federal or state law, rule,
5 14 or policy, and who are not assisting a certified real estate

5 15 appraiser in the development or reporting of an appraisal
5 16 assignment that is required by this chapter, or by federal or
5 17 state law, rule, or policy to be performed by a certified real
5 18 estate appraiser, are not required to register with the board.
5 19 Sec. 7. NEW SECTION. 543D.21 VIOLATIONS == INJUNCTIONS
5 20 == CIVIL PENALTIES.
5 21 1. If, as the result of a complaint or otherwise, the
5 22 board believes that a person has engaged, or is about to
5 23 engage, in an act or practice that constitutes or will
5 24 constitute a violation of this chapter, the board may make
5 25 application to the district court for an order enjoining such
5 26 act or practice. Upon a showing by the board that such person
5 27 has engaged, or is about to engage, in any such act or
5 28 practice, an injunction, restraining order, or other order as
5 29 may be appropriate shall be granted by the district court.
5 30 2. The board may investigate complaints or initiate
5 31 complaints against persons who are not certified or registered
5 32 under this chapter solely to determine whether grounds exist
5 33 to make application to the district court pursuant to
5 34 subsection 1 or to issue an order pursuant to subsection 3,
5 35 and in connection with such complaints or investigations may
6 1 issue subpoenas to compel witnesses to testify or persons to
6 2 produce evidence consistent with the provisions of section
6 3 272C.6, subsection 3, as needed to determine whether probable
6 4 cause exists to initiate proceedings under this section or to
6 5 make application to the district court for an order enjoining
6 6 violations of this chapter.
6 7 3. In addition to or as an alternative to making
6 8 application to the district court for an injunction, the board
6 9 may issue an order to a person who is not certified or
6 10 registered under this chapter to require compliance with this
6 11 chapter and may impose a civil penalty against such person for
6 12 any violation of subsection 4 in an amount up to one thousand
6 13 dollars for each violation. All civil penalties collected
6 14 pursuant to this subsection shall be deposited in the housing
6 15 trust fund created in section 16.181. An order issued
6 16 pursuant to this section may prohibit a person from applying
6 17 for certification or registration under this chapter.
6 18 4. The board may impose civil penalties against a person
6 19 who is not certified or registered under this chapter for any
6 20 of the following acts:
6 21 a. A violation of section 543D.15.
6 22 b. A violation of section 543D.18A, subsection 1.
6 23 c. A violation of section 543D.20, subsection 1.
6 24 d. Fraud, deceit, or deception, through act or omission,
6 25 in connection with an application for certification or
6 26 registration under this chapter.
6 27 5. The board, before issuing an order under this section,
6 28 shall provide the person written notice and the opportunity to
6 29 request a hearing. The hearing must be requested within
6 30 thirty days after receipt of the notice and shall be conducted
6 31 in the same manner as provided for disciplinary proceedings
6 32 involving a licensee under this chapter.
6 33 6. A person aggrieved by the imposition of a civil penalty
6 34 under this section may seek judicial review pursuant to
6 35 section 17A.19.
7 1 7. If a person fails to pay a civil penalty within thirty
7 2 days after entry of an order imposing the civil penalty, or if
7 3 the order is stayed pending an appeal, within ten days after
7 4 the court enters a final judgment in favor of the board, the
7 5 board shall notify the attorney general. The attorney general
7 6 may commence an action to recover the amount of the penalty,
7 7 including reasonable attorney fees and costs.
7 8 8. An action to enforce an order under this section may be
7 9 joined with an action for an injunction.

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7 13 _____
7 14 JOHN P. KIBBIE
7 15 President of the Senate
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7 19 PATRICK J. MURPHY
7 20 Speaker of the House

7 21 I hereby certify that this bill originated in the Senate and
7 22 is known as Senate File 137, Eighty-second General Assembly.
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7 28 Approved _____, 2007
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7 32 CHESTER J. CULVER
7 33 Governor

MICHAEL E. MARSHALL
Secretary of the Senate